IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1585 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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Versus

UNION OF INDIA

Appearance: 1. Special Civil Application No. 1585 of 2004
MR ANUPAM DIGHE for Petitioner No. 1-2
MS DHARMISHTA RAVAL for Respondent No. 1-3
MR JITENDRA MALKAN for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 22/09/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

It is conceded by the learned counsel for the petitioner that in the instant case the petitioner has got alternative remedy of appeal before the Commissioner (Appeal), Central Excise and in fact the petitioner has availed of that remedy. In that view of the matter, we would not like to exercise our writ jurisdiction in this matter and accordingly this petition is dismissed.

At this stage, a request is made by the learned counsel for petitioner that the appellate authority be directed to hear and decide his appeal at the earliest in view of the huge amount running into more than rupees one crore. We do not know how many cases are pending before the appellate authority, therefore, instead of issuing any such direction to the appellate authority, we are of the considered opinion that if the petitioner-appellant approaches the appellate authority by way of proper application for expediting the appeal, then we are sure that considering the facts and circumstances of the case, the appellate authority may try to decide his appeal as early as possible. We make it clear that without going into the merits of the case this petition is dismissed only on the ground of alternative remedy, therefore, it would be open to the petitioner to raise all the contentions raised in this petition before the appellate authority in the appeal filed by him.

With these observations, this petition is dismissed. Rule is discharged. No order as to costs.

(B.J.Shethna, J.)

(Sharad D. Dave, J.)

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